



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,780	10/09/2001	Max Schaldach	7040-46	6883

21324 7590 07/30/2003
HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON, OH 44313

EXAMINER

BAXTER, JESSICA R

ART UNIT	PAPER NUMBER
----------	--------------

3731

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

Office Action Summary	Application No. 09/974,780	Applicant(s) SCHALDACH ET AL.	
	Examiner Jessica R Baxter	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-60 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,931,867 to Haindl.

Regarding claims 1 and 59, Haindl discloses a stent, for expansion from a first condition into an expanded second condition in which it holds a vessel in an expanded state (Column 1 lines 58-60), said stent comprising: a tubular body, a peripheral surface of which is formed by a plurality of support portions that extend in a longitudinal direction of the stent, the support portions comprising: a plurality of bar elements; and a plurality of connecting bars, extending rectilinearly in the longitudinal direction of the stent when in the first condition, that connect the bar elements; wherein the support portions form a plurality of support portion groups with at least a first support portion and a second support portion in adjacent relationship thereto in a peripheral direction of the stent, the bar elements of which extend in a meander configuration in the longitudinal direction of the stent, and wherein a first engagement point of the connecting bars engages the first support portion and a second engagement point of the connecting bars engages the second support portion, such that the first and second engagement points are spaced apart from each other in the longitudinal direction of the stent and the connecting bars are configured and arranged so the spacing in the longitudinal direction between the first and second engagement points decreases upon expansion of the stent (see attached FIGS 1 and 2 for details).

Art Unit: 3731

First Condition

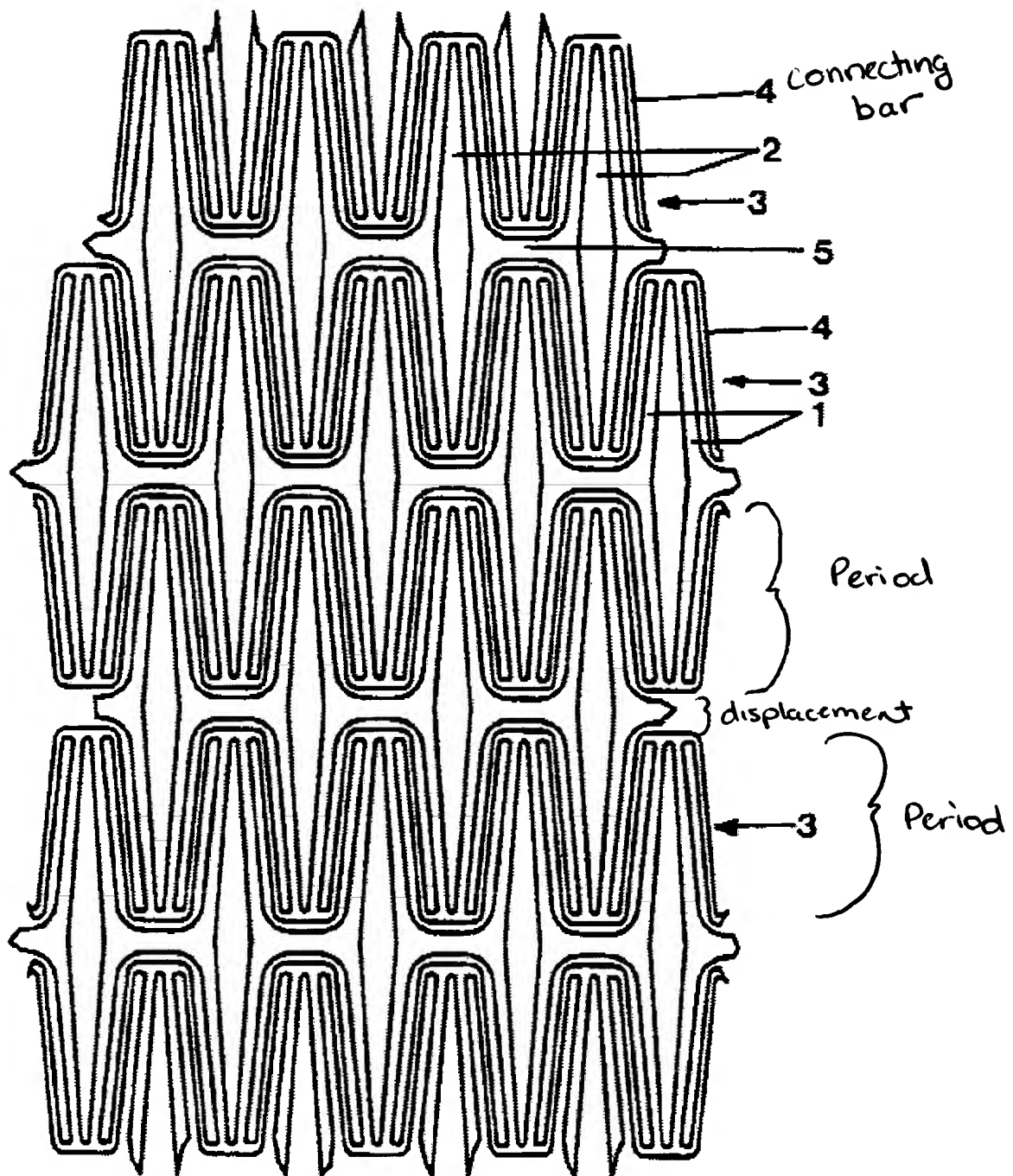


FIG.1

Second Condition

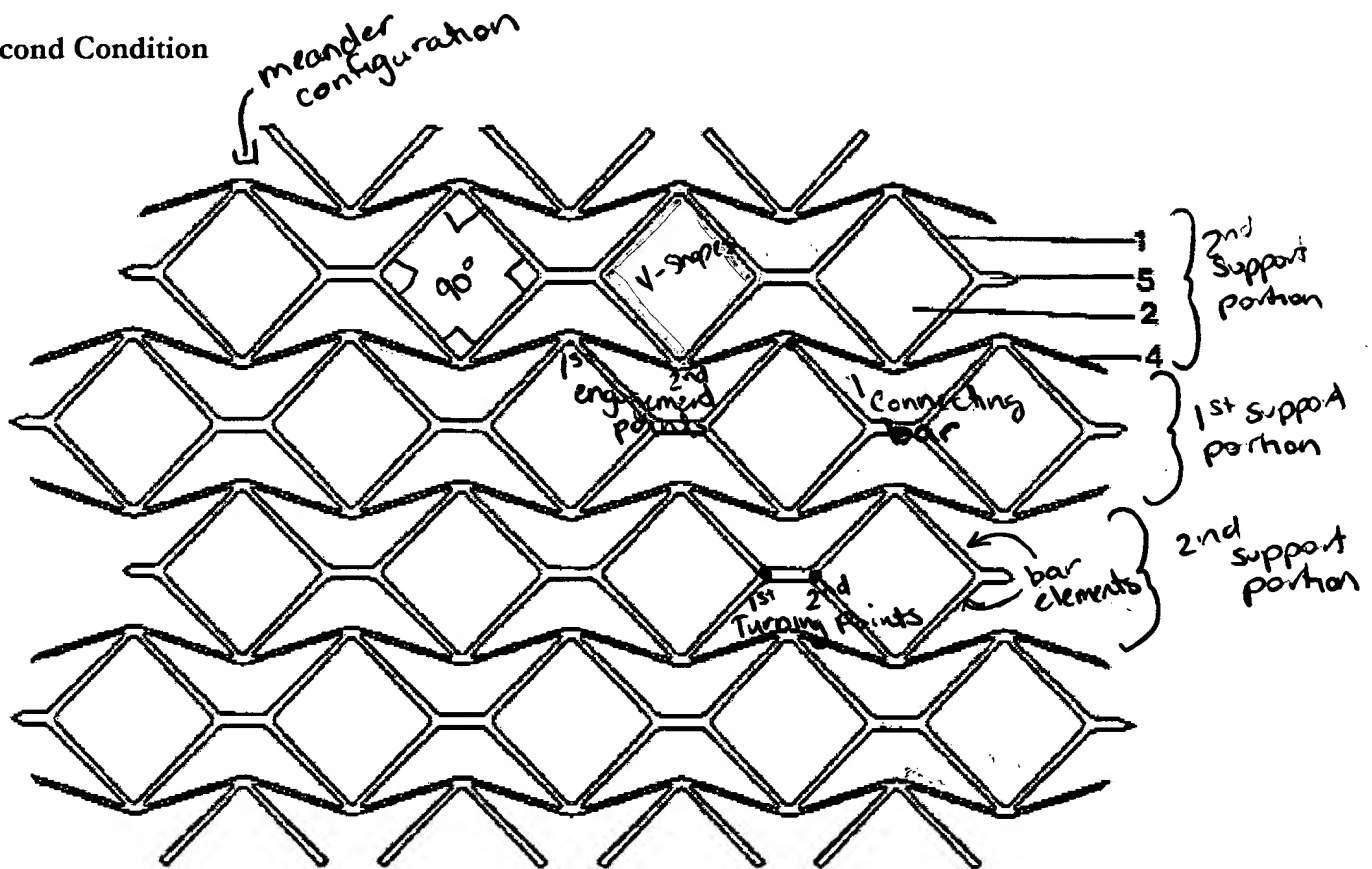


FIG.2

Regarding claim 2, Haindl discloses that at least the bar elements of a first support portion and of the two second support portions arranged in the peripheral direction of the stent at both sides of the first support portion extend in a meander configuration in the longitudinal direction of the stent and the first engagement points of the connecting bars engage the first support portion and the second engagement points of the connecting bars engage one of the two second support portions, wherein the first and second engagement points are spaced relative to each other in the longitudinal direction of the stent and the connecting bars are configured and arranged so that the spacing in the longitudinal direction of the stent changes between the first and second engagement

Art Unit: 3731

points decreases upon expansion of the stent in the same manner. Compare attached FIGS. 1 and 2 connecting bars.

Regarding claims 3 and 5 Haindl discloses that at least the first engagement points of the connecting bars are located near a turning point of the bar element to which the connecting point is engaged (See FIG. 2).

Regarding claims 4 and 6, Haindl discloses that the second engagement points of the connecting bars are located near a turning point of the bar element to which the connecting point is engaged (see FIG. 2).

Regarding claims 7, 8, 9 and 10, Haindl discloses that the connecting bars are of a substantially straight configuration (See FIG. 2).

Regarding claims 11, 12, 13, 14 and 15, Haindl discloses that a connecting line between the first and second engagement points extends *substantially* in the longitudinal direction of the stent (see FIG. 2).

Regarding claims 16, 17, 18, 19, 20 and 21, Haindl discloses that at least one support portion is formed by bar elements extending in a meander configuration in the longitudinal direction of the stent, wherein the bar elements comprise two bar element portions that are adjacent in the longitudinal direction of the stent and which extend between a turning point to form the limbs of a V-shape (see FIG. 2).

Regarding claims 22, 24, 26, 28, 30 and 32, Haindl discloses that the bar element portions include an angle of between 80° and 100 °(see FIG.2).

Regarding claims 23, 25, 27, 29, 31 and 3, Haindl discloses that the bar element portions include an angle of 90°(see FIG. 2).

Art Unit: 3731

Regarding claims 34, 35, 36, 37, 38, 39 and 40, Haindl discloses that the bar elements of the first and second support portions are of substantially the same periodic configuration and a length of the connecting bars is such that the adjacent bar elements in the first condition of the stent are displaced relative to each other by up to a quarter period in the longitudinal direction of the stent (see FIG. 1).

Regarding claims 41, 42, 43, 44, 45, 46, 47, 48 and 49, Haindl discloses that the bar elements of the first and second support portions are of substantially the same period configuration and a length of the connecting bars is such that in the second condition of the stent the adjacent bar elements extend substantially in phase with each other with respect to the longitudinal direction of the stent (see FIG. 2).

Regarding claims 50, 51, 52, 53, 54, 55, 56 and 57, Haindl discloses that the bar elements are designed to increase the flexibility of the stent (Column 2 lines 11-20).

Regarding claim 58, Haindl discloses that at least one support portion formed by a bar element, the direction of curvature of which changes in a central region between a pair of turning points (see FIG. 2).

Response to Arguments

3. Applicant's arguments with respect to claims 1-60 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3731

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R Baxter whose telephone number is 703-305-4069. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Jessica R Baxter
Examiner
Art Unit 3731

gub
rb

July 24, 2003

David O. Reip

DAVID O. REIP
PRIMARY EXAMINER